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C O N F I D E N T I A L VIENNA 001362

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E.O. 12958: DECL: 09/17/2023
TAGS: [PTER](#) [CVIS](#) [PREL](#) [AU](#)
SUBJECT: AUSTRIAN INTERIOR MINISTRY RECOMMENDS DELAY IN
HSPD-6, PRUEM, AND VWP MOU NEGOTIATIONS

REF: VIENNA 1106 AND PREVIOUS

Classified By: Econ/Pol Counselor Dean Yap. Reason: 1.4(b)
and (d)

11. (C) Summary. The Austrian MoI believes for several reasons that U.S.-Austrian talks on the VWP MOU HSPD-6 and a Preum-like agreement should be postponed until after the formation of a new Austrian government -- unlikely before January 2009. U.S.-Austrian talks could be held in February, but even then, progress will be linked to a resolution of U.S.-EU differences over EU citizens' right to judicial redress in the U.S. in the event personal data is misused. End Summary.

12. (C) Econ/Pol Counselor met Sept. 16 with Kurt Hager, Interior Ministry Bilateral and Multilateral Affairs Director, and the Austrian representative on the EU's Article 36 Committee. Hager reported progress in moving the draft HSPD-6 and Pruem-like agreements into a position where formal negotiations could begin. However, he stressed two factors that, in his view, made an early start to U.S.-Austrian discussions pointless. The first was the Austrian political cycle -- with new elections to be held September 28 followed by a lengthy period of coalition negotiations, the present cabinet would not agree to a formal start to negotiations. Second, the Austrian Data Protection Authority was determined to ensure that Austrian citizens should have a judicial right to redress in the U.S. (as they now have in Europe) should U.S. authorities misuse personal data provided to them.

13. (C) Hager did believe that, despite minister-level statements to the contrary, Austria would not insist on a U.S.-EU agreement on data protection as a pre-condition for the U.S.-Austrian agreements. However, there would have to be substantial agreement on outstanding issues in the HLCG, and Hager recommended early, high-level intervention with the new government to confirm U.S. commitments on data protection. Following such intervention, Hager believed formal negotiations could usefully begin. Embassy would assess February-March 2009 as a likely timeframe.

14. (C) E/P Counselor noted that the HSPD-6 Agreement, because it deals with national security data, is outside the framework of U.S.-EU consultations on exchanging/protecting law enforcement data, and asked if it would not be possible to proceed earlier with it. Hager confirmed that the Commission has told member states they are free to conclude HSPD-6 agreements; he also confirmed that he has repeatedly made clear that the data protection provisions in the HSPD-6 are based on already existing U.S.-EU agreements. However, the Data Protection Authority continues to reject them. Moreover, Austria has no laws regarding exchange of national security information; all information exchanges with the U.S. are based on domestic security legislation, so the distinction the U.S. and EC have drawn between the HSPD-6 and Pruem-like agreements doesn't apply in Austria. Hager acknowledged that the U.S. may have separate negotiating

teams for the two agreements, but Austria would not and so negotiation of the two should, at a minimum, happen simultaneously.

15. (C) Comment: Unfortunately, Hager's arguments on the timing of U.S.-Austrian talks seem compelling. Hager acknowledged that some in the Data Protection Authority (which he described as staffed by "fundamentalists") were hoping that the U.S. would lose interest in the agreements after our election. However, he has frequently pointed out that the requirements for HSPD-6 and Pruem-like agreements are based in law passed by a Democratically-controlled Congress with bipartisan support. Embassy will continue to look for openings and it may be possible to identify and engage with key future political figures on C/T cooperation before a new government is officially installed. End Comment.

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